

# NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKING

After an agency has filed a Notice of Proposed Rulemaking with the Secretary of State's Office for *Register* publication and filing and the agency decides to prepare a Notice of Supplemental Proposed Rulemaking for submission to the Office, the Secretary of State shall publish the Notice under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.). Publication of the Notice of Supplemental Proposed Rulemaking shall appear in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

*Editor's note: In accordance with A.A.C. R1-1-109(D), the following Notice of Supplemental Proposed Rulemaking is republished to correct printing errors in the text and replaces Notice of Supplemental Proposed Rulemaking: 7 A.A.R. 1075 - 1081, March 9, 2001.*

## NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

### TITLE 17. TRANSPORTATION

#### CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION

##### PREAMBLE

**1. Register citation and date for the original Notice of Proposed Rulemaking:**

6 A.A.R. 4490, December 1, 2000

**2. Sections Affected**

R17-4-506

**Rulemaking Action**

Amend

**3. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 28-366

Implementing statutes: A.R.S. §§ 28-3306(A)(3)

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Lynn S. Golder  
Hearing Officer II

Address: Arizona Department of Transportation  
Motor Vehicle Division, Mail Drop 507M  
3737 North 7th Street, Suite 160  
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E-mail: lgolder@dot.state.az.us

**5. An explanation of the rule, including the agency's reasons for initiating the rule:**

In November 2000, the Arizona Department of Transportation, Motor Vehicle Division (Division) proposed to make the driver point system rule more clear, concise, and understandable. The Division also proposed to make precise adjustments in the Division's suspensions of drivers who accumulate demerit points.

At the end of January 2001, the Division recognized that its notice assigning drivers to traffic survival school does not list traffic survival schools licensed by the Division and does not state that a traffic survival school will charge a fee. The Division determined the following:

- Any past listing of licensed traffic survival schools in the Division's notice was provided for the convenience of drivers assigned to traffic survival school,
- The Division now licenses over 40 traffic survival schools,
- Drivers assigned to traffic survival school can readily obtain a list of licensed schools from the Division's Customer Service Guide and Driver License Manual and from the Division's web site, and

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- A.R.S. § 28-3307(C) informs the public regarding a traffic survival school charge.

The Division now proposes to delete from the driver point system rule the provision for listing licensed traffic survival schools on the assignment notice and the provision for stating on the assignment notice that a licensed traffic survival school will charge a fee. The Division recognizes that some traffic survival schools want a listing of schools on the assignment notice sent to drivers. Therefore, the Division supplements its proposed rule and schedules an oral proceeding by video conference.

In this supplemental notice, rule text shown with a strikethrough as well as underlining (~~rule text~~) indicates originally proposed new text deleted by the Division for this supplemental notice. As supplemented, the driver point system rule will:

- Simplify the language of existing definitions and number all definitions;
- Delete the definition of “fee;”
- Add definitions of “gore area,” “[36]-month period,” “[12]-month period,” and “[24]-month period;”
- Reverse the order of traffic survival school and suspension in subsection (B), sentence 1;
- Reverse the order of subsections (C) and (D);
- Change the text of subsection (C), paragraph 1, line 2 from “a 12-month period” to “the 12-month period defined in subsection (A)(10);”
- Change the text of subsection (C), paragraph 1, line 3 from “24 months before the date of the violation resulting in the accumulation of 8 to 12 points” to “the 24-month period defined in subsection (A)(11);”
- Substitute “subsection (C)(2)” for “R17-4-506(D)(2);”
- Delete subsections (C)(1)(a) and (C)(1)(b) dealing with listing licensed traffic survival schools and stating that a licensed traffic survival school will charge a fee and reletter the text remaining in subsection (C)(1) as subsections (C)(1)(a) and (C)(1)(b);
- Change the text of subsection (C)(1)(b) from “the Division’s issuing” to “the Division issuing;”
- Change the text of subsection (C)(2)(a) from “the driver’s successful completion of the curriculum” to “the driver successfully completed the curriculum;”
- Relletter subsection (C)(3)(c) as subsection (C)(4) and change the text from “on the order of suspension” to “on an order of suspension;”
- Relletter subsections (C)(3)(c)(ii) and (C)(3)(c)(iii) as subsection (C)(4)(a) and (C)(4)(b) and delete the word “time” from subsection (C)(4)(a);
- Simplify subsection (D)(1) by substituting “Comes under subsection (B) and does not come under subsection (C)” for “(a) Accumulates at least 13 points in any 12-month period, or (b) Completed traffic survival school within 24 months before the date of the violation resulting in the order of suspension.”
- Increase the upper limit of demerit point accumulation for a 3-month suspension in subsection (D)(2)(a);
- Increase the lower and upper limits of demerit point accumulation for a 6-month suspension in subsection (D)(2)(b);
- Increase the lower limit of demerit point accumulation for a 12-month suspension in subsection (D)(2)(c);
- Change the text of subsections (D)(2)(a) and (D)(2)(b) from “any 12-month period” to “the 12-month period defined in subsection (A)(10);”
- Change the text of subsection (D)(2)(c) “any 12-month period” to “the 36-month period defined in subsection (A)(8);”
- Add subsection (D)(2)(d) “A 3-month suspension for accumulation of 8 to 12 points in the 12-month period defined in subsection (A)(10) and traffic survival school successfully completed in the 24-month period defined in subsection (A)(11);” and
- Delete the word “time” from subsection (D)(3)(a).

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Under the point system rule as supplemented, the Division will continue to order drivers to improve their safety and driving habits by successfully completing the curriculum of a traffic survival school licensed by the Division. The Division will continue to remove unsafe drivers from the Arizona roads. The rule as supplemented will fine-tune the Division's actions for curbing unsafe driving behavior and increasing the safety of the Arizona roads. The rule as supplemented will also reflect the Division's current shorter notice of assignment to traffic survival school. Finally, the rule as supplemented will make non-substantial stylistic changes from the rule as originally proposed.

**6. An explanation of the substantial change which resulted in this supplemental notice:**

The Division proposes to delete from the driver point system rule the text relating to a list of licensed traffic survival schools on the notice of assignment sent to drivers. This deletion reflects the Division's current shorter notice of assignment. Any past listing of licensed traffic survival schools on the notice of assignment was for the convenience of drivers assigned to traffic survival school. The Division now licenses over 40 traffic survival schools, and drivers can readily obtain a list of licensed traffic survival schools from the Division's Customer Service Guide and Driver License Manual and from the Division's web site. The Division recognizes that some traffic survival schools want a listing of schools on the assignment notice sent to drivers.

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

For the driver point system rule that became effective March 9, 2000, the Division described the point system's economic cost to certain state agencies, including the Division; to drivers who accumulate demerit points; to the Administrative Office of the Courts; and to Arizona courts. The Division also described the benefits to the public from safer roads and to licensed traffic survival schools from fees paid by drivers ordered to complete the traffic survival school curriculum. Finally, the Division determined that Arizona law enforcement agencies must stay current with, but incur no costs from, the driver point system.

For the amendments to the driver point system rule as originally proposed, the Division determined that the costs to drivers who accumulate demerit points, to the Administrative Office of the Courts, and to Arizona courts will remain unchanged. The benefits to the public and to licensed traffic survival schools will also remain unchanged. Finally, Arizona law enforcement agencies will continue to incur no costs from the rule.

The Division determined that the amendments to the driver point system rule as originally proposed will produce the following economic impacts in addition to those impacts described for the rule that became effective March 9, 2000:

- The Division will incur additional rulemaking costs,
- The Governor's Regulatory Review Council will incur additional rule review costs, and
- The Secretary of State will incur additional rule publication costs.

The Division notes a general increase in point-accumulation suspensions issued over the last decade, with the increase in Arizona's population certainly a factor in this trend. Throughout the decade, the Division issued many more 3-month point-accumulation suspensions than 6-month and 12-month point-accumulation suspensions. Fluctuations within the general trend may be attributed to a number of factors, such as:

- The resources and priorities of Arizona law enforcement agencies,
- The legislature's 1998 enactment of new traffic offenses, and
- The Division's assignment of high points for conviction of violating several of the new traffic offenses.

For this supplemental rulemaking, the Division determined that some licensed traffic survival schools may incur marketing costs from the shorter notice of assignment, without a listing of licensed traffic survival schools, sent to drivers. Any past listing of licensed traffic survival schools on the notice of assignment was for the convenience of drivers assigned to traffic survival school. The Division now licenses over 40 traffic survival schools, and drivers can readily obtain a list of licensed traffic survival schools from the Division's Customer Service Guide and Driver License Manual and from the Division's web site. Like any business, a traffic survival school's marketing costs are normal costs of doing business.

The Division determined that the benefits to public safety and to licensed traffic survival schools from this driver point system rule as supplemented continue to outweigh the costs.

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**9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Lynn S. Golder  
Hearing Officer II

Address: Arizona Department of Transportation  
Motor Vehicle Division, Mail Drop 507M  
3737 North 7th Street, Suite 160  
Phoenix, Arizona 85014-5017

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E-mail: lgolder@dot.state.az.us

**10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments on the supplemental proposed rulemaking or preliminary summary of the economic, small business, and consumer impact should be submitted to the person specified in question # 4 no later than the close of the record at 5:00 p.m., April 17, 2001.

An oral proceeding by video conference is scheduled as follows:

Date: Tuesday, April 17, 2001

Time: 2:00 p.m.

Locations:

Flagstaff	Phoenix	Tucson
Arizona Department of Transportation District Office Board Room 1801 South Milton Road Flagstaff, Arizona 86001	Arizona Department of Transportation Headquarters Green Room, Conference Room 186 206 South 17th Avenue Phoenix, Arizona 85007	Arizona Department of Transportation District Office Board Room 1221 South 2nd Avenue Tucson, Arizona 85713

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

**12. Incorporations by reference and their location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 17. TRANSPORTATION**

**CHAPTER 4. DEPARTMENT OF TRANSPORTATION - MOTOR VEHICLE DIVISION**

**ARTICLE 5. DRIVER LICENSES**

Section  
R17-4-506. Driver Point System

**ARTICLE 5. DRIVER LICENSES**

**R17-4-506. Driver Point System**

A. In this Section, unless the context otherwise requires:

1. "Civil traffic violation" ~~has the meaning prescribed~~ is defined in A.R.S. § 28-121(B).
2. "Conviction" ~~has the meaning prescribed~~ is defined in A.R.S. § 28-101(12).
3. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
4. "Driver" ~~has the meaning prescribed~~ is defined in A.R.S. § 28-101(18).

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- ~~5.~~ "Fee" has the meaning prescribed ~~is defined~~ in A.R.S. § 28-3307(C).
- ~~6-5.~~ "Gore area" means the area that is between a through roadway and an entrance ramp or exit ramp and that is defined by two wide solid white lines that guide traffic entering or exiting a roadway. Gore area does not include a safety zone. A.R.S. § 28-644.
- ~~7-6.~~ "Judgment" has the meaning prescribed ~~is defined~~ in A.R.S. § 28-3001(11).
- ~~8-7.~~ "Suspension" has the meaning prescribed ~~is defined~~ in A.R.S. § 28-3001(16).
- ~~9-8.~~ "Thirty-six month period" means the time period measured:
- ~~a. From the violation date of the most recent violation with assigned points for which a driver is convicted has a conviction or judgment, and~~
  - ~~b. To that day and month 3 years before the violation date- of the violation under subsection (A)(8)(a).~~
- ~~10-9.~~ "Traffic survival school" has the meaning prescribed ~~is defined~~ in A.R.S. § 32-2351(4)(b).
- ~~11-10.~~ "Twelve-month period" means the time period measured:
- ~~a. From the violation date of the most recent violation with assigned points for which a driver is convicted has a conviction or judgment, and~~
  - ~~b. To that day and month 1 year before the violation date- of the violation under subsection (A)(10)(a).~~
- ~~12-11.~~ "Twenty-four month period" means the time period measured:
- ~~a. From the violation date of the most recent violation with assigned points for which a driver is convicted has a conviction or judgment, and~~
  - ~~b. To that day and month 2 years before the violation date- of the violation under subsection (A)(11)(a).~~

- B.** Under A.R.S. § 28-3306(A)(3), if a driver accumulates at least 8 points in a 12-month period, the Division shall ~~suspend the driver's Arizona driver license and Arizona driving privilege, suspend the Arizona driving privilege of a driver not licensed by the Division, or order the driver to successfully complete the curriculum of a licensed traffic survival school, suspend the driver's Arizona driver license and driving privilege, or suspend the Arizona driving privilege of a driver not licensed by the Division.~~ The Division shall assign points to a driver as follows:

	Points
1. Conviction of violating A.R.S. § 28-1381, driving or actual physical control of a vehicle while under the influence of intoxicating liquor or drugs;	8
2. Conviction of violating A.R.S. § 28-1382, driving or actual physical control of a vehicle while under the extreme influence of intoxicating liquor;	8
3. Conviction of violating A.R.S. § 28-693, reckless driving;	8
4. Conviction of violating A.R.S. § 28-708, racing on highways;	8
5. Conviction of violating A.R.S. § 28-695, aggressive driving;	8
6. Conviction or judgment of violating A.R.S. §§ 28-662, 28-663, 28-664, 28-665, leaving the scene of an accident;	6
7. Conviction or judgment of violating A.R.S. § 28-672, failure to comply with a red traffic-control signal, failure to yield the right of way when turning left at an intersection, or failure to comply with a stop sign or yield sign, and the failure results in an accident causing death to another person;	6
8. Conviction or judgment of violating A.R.S. § 28-672, failure to comply with a red traffic-control signal, failure to yield the right of way when turning left at an intersection, or failure to comply with a stop sign or yield sign, and the failure results in an accident causing serious physical injury to another person;	4
9. Conviction or judgment of violating A.R.S. § 28-701, speeding;	3
10. Conviction or judgment of violating A.R.S. § 28-644, driving over or across, or parking in any part of a gore area; and	3
11. Conviction or judgment of violating any other traffic regulation that governs a vehicle moving under its own power.	2

- ~~D.C.~~ The Division shall send a dated order of assignment to traffic survival school under A.R.S. § 28-3318 to a driver with 8 to 12 points in ~~a~~ the 12-month period defined in subsection (A)(10), who did not complete traffic survival school within 24 months before the date of the violation resulting in the accumulation of 8 to 12 points in a the 24-month period defined in subsection (A)(11).

- The order of assignment shall:
  - ~~List the names, addresses, and telephone numbers of the licensed traffic survival schools:~~
    - ~~In the driver's Arizona county of residence;~~
    - ~~In a neighboring Arizona county, if the driver's county of residence does not have a traffic survival school;~~
    - ~~or~~
    - ~~For a nonresident driver, state the Division telephone number to call about complying with the order of assignment;~~
  - ~~State that a licensed traffic survival school will charge a fee;~~

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- ~~e-a.~~ Instruct the driver to submit any hearing request to the Division within 15 days after the date of the order of assignment; and
- ~~e-b.~~ Instruct the driver that failure to successfully complete traffic survival school within 60 days after the date of the order of assignment will result in the ~~Division's~~ Division issuing a 6-month order of suspension.
- 2. The Division shall record that a driver completed traffic survival school when:
  - a. A licensed traffic survival school reports the ~~driver's successful completion of~~ driver successfully completed the curriculum, or
  - b. The driver presents to the Division an original certificate of completion issued by a licensed traffic survival school, within 30 days of issuance of the certificate.
- 3. The Division shall send a driver a 6-month order of suspension under A.R.S. § 28-3318 when:
  - a. The driver does not establish completion of traffic survival school under ~~R17-4-506(D)(2)~~ subsection (C)(2), and
  - b. At least 61 days pass after the date of the order of assignment.
- ~~e-4.~~ The Division shall specify on ~~the an~~ order of suspension:
  - ~~i-a.~~ The ~~time~~ period within which a hearing request to the Division may be made, and
  - ~~i-b.~~ The effective date of the suspension.
- E-D.** The Division shall:
  - 1. Send a driver an order of suspension under A.R.S. § 28-3318 when the driver:
    - ~~a.~~ ~~Accumulates at least 13 points in any 12-month period, or~~
    - ~~b.~~ ~~Completed traffic survival school within 24 months before the date of the violation resulting in the order of suspension~~  
comes under subsection (B) and does not come under subsection (C);
  - 2. Specify, on the order of suspension, the length of the suspension as follows:
    - a. A 3-month suspension for accumulation of ~~8 13~~ to ~~14 17~~ points in ~~any a the~~ 12-month period defined in subsection (A)(10),
    - b. A 6-month suspension for accumulation of ~~15 18~~ to ~~19 23~~ points in ~~any a the~~ 12-month period defined in subsection (A)(10),
    - c. A 12-month suspension for accumulation of ~~20 24~~ or more points in ~~any 12-month a the 36-month period;~~ defined in subsection (A)(8), and
    - d. A 3-month suspension for accumulation of 8 to 12 points in a the 12-month period defined in subsection (A)(10) and traffic survival school successfully completed in a the 24-month period defined in subsection (A)(11); and
  - 3. Specify, on the order of suspension:
    - a. The ~~time~~ period within which a hearing request to the Division may be made, and
    - b. The effective date of the suspension.
- E.** No change.
- F.** No change.
- G.** No change.
- H.** No change.
- I.** No change.